

**In the United States District Court
For the Eastern District of Pennsylvania**

Hilda L. Solis, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

John J. Koresko, V, et al.,

Defendants

Civil Action No. 2:09-cv-00988

**Motion for Leave to File Motion for an Order Directing TD Bank, N .A. and PennMont
Benefit Services, Inc. to Repay Trust Policy Loans**

The Koresko Parties, after consultation with F&M Trust Co. and TD Bank, request leave to file the attached Motion so that outstanding loans against insurance policies, at issue in this case, can be promptly repaid.

F&M Trust Co., and TD Bank, N.A. have reviewed the attached Motion and Proposed Order. F&M has no objection thereto. TD Bank, N.A. takes no position and maintains neutral status.

Respectfully submitted,

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John J. Koresko, V

December 15, 2009

**In the United States District Court
For the Eastern District of Pennsylvania**

Hilda L. Solis, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

John J. Koresko, V, et al.,

Defendants

Civil Action No. 2:09-cv-00988

**Motion for an Order Directing TD Bank, N .A. and PennMont Benefit Services, Inc. to
Repay Trust Policy Loans**

1. By and through their attorney, Defendants Koresko Law Firm, P.C.; John J. Koresko, V; Jeanne Bonney; Koresko & Associates, P.C.; PennMont Benefit Services, Inc.; the Regional Employers' Assurance Leagues Voluntary Employees' Beneficiary Association Trust; the Single Employer Welfare Benefit Plan Trust; and Penn Public Trust [the "Koresko Parties"] petition this Court for an Order by way of injunction directing TD Bank, N.A. to repay policy loans taken, collateralized by Trust insurance policies, the proceeds of which are "frozen" by TD Bank.

2. The Koresko Parties ask the Court to order as follows [as discussed in Court on November 12, 2009]: at the direction of PennMont Benefit Services, Inc., and upon non-objection thereto confirmed by F&M Trust Co. in writing, TD Bank shall within five (5) business days, release any "frozen funds" and repay the policy loans identified by PennMont Benefit Services, Inc., by either wire transfer or check, based on information that PennMont Benefit Services, Inc., will provide.

3. In support of this motion, Koresko Parties represent that F&M Trust Co., and TD Bank, N.A. have reviewed this Motion and Proposed Order and F&M has no objection thereto. TD Bank, N.A. takes no position and maintains neutral status.

4. The Court made a record on this matter at the hearing of November 12, 2009. While the Koresko Parties assume that the Department of Labor will object if not given access to the names of the insureds and other information, the Koresko Parties submit that the Court can and should grant the relief requested over any such assumed objection because the actions requested are in the best interest of beneficiaries and participants of the Trusts.

5. Since there has been a hearing where all the parties were heard, the Court may exercise its discretion to act. *See* Fed. R. Civ. P. 78 (“The Court may make provision by rule or order for the submission and determination of motions without oral hearing...”); *Williams v. Curtiss Wright Corp.*, 681 F. 2d 161, 163 (3d Cir. 1982).

6. This Court may rule based on the evidence presented and the fact that F&M Trust Co. has no objection thereto. TD Bank, N.A. takes no position and maintains neutral status regarding the repayment of funds into the policies.

7. Since interest is tolling on the loans, and because the posture of the case has thwarted the original intention of the loans, the Koresko Parties believe it would be in the best interest of the Trust’s participants and beneficiaries for the loan proceeds to be repaid forthwith by way of Order in the form attached hereto.

8. Koresko Parties further request leave from the requirement of Local Rules to file any separate Memorandum of Law.

Respectfully submitted,

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John J. Koresko, V

December 15, 2009

**In the United States District Court
For the Eastern District of Pennsylvania**

Hilda L. Solis, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

John J. Koresko, V, et al.,

Defendants

Civil Action No. 2:09-cv-00988

ORDER

AND NOW this _____ day of December, 2009, having considered the Motion of Defendants Koresko Law Firm, P.C.; John J. Koresko, V; Jeanne Bonney; Koresko & Associates, P.C.; PennMont Benefit Services, Inc.; the Regional Employers' Assurance Leagues Voluntary Employees' Beneficiary Association Trust; the Single Employer Welfare Benefit Plan Trust; and Penn Public Trust seeking permission to move this Court for an Order directing TD Bank, N.A. to repay policy loans collateralized by Trust policies, the Motion is GRANTED.

The Clerk is DIRECTED to accept the Motion.

And further, there having been evidence presented in this Court on November 12, 2009, that there are certain loan funds which are identifiable and could be repaid out of the 'frozen funds' the policy loans identified to the policies upon which they were taken, and the non-governmental Parties to this action being amenable thereto, notwithstanding the objection of the Department of Labor as to desiring certain identifying information about the policies and insureds,

IT IS HEREBY ORDERED that PennMont Benefit Services, Inc. shall provide F&M Trust Company and TD Bank, N.A. with a copy of the loan and reinstatement information prior to their confirmation of non-objection; and further

ORDERED that subject to F&M Trust Company, in its sole discretion, providing its non-objection in writing to TD Bank, N.A. concerning PennMont Benefit Services, Inc.'s loan repayment direction, T.D. Bank, N.A. shall within five (5) business days, repay out of the "frozen funds" [which are the subject of the interpleader complaint of TD Bank, N.A.] the policy loans identified by PennMont Benefit Services, Inc., by either wire transfer or check, based on information that PennMont Benefit Services, Inc., will provide; and further

ORDERED that TD Bank, N.A. and PennMont Benefit Services, Inc., shall certify to the Court and F&M Trust within five (5) business days of completion that such reinstatements have been completed; and further

ORDERED that no disclosure of information to the Department of Labor shall be permitted other than the Certification of Fact by TD Bank, N.A. and PennMont Benefit Services, Inc. that said repayments have been completed as directed.

, J.

CERTIFICATE OF SERVICE

I hereby certify that at my direction a true and correct copy of Defendants' Motion for Leave to File Motion for an Order Directing TD Bank, N .A. and PennMont Benefit Services, Inc. to Repay Trust Policy Loans; Motion for an Order Directing TD Bank, N .A. and PennMont Benefit Services, Inc. to Repay Trust Policy Loans

were served this date, via ECF, upon the following:

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A handwritten signature in black ink, appearing to read 'J. Koresko', with a horizontal line underneath it.

John J. Koresko, V, Esq.

December 15, 2009